



Comisión Nacional de los Derechos Humanos

México

Recommendation 79/2011

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

Mexico City, December 10th, 2011

SUBJECT: ABOUT THE CASE OF THE DEATH OF V1, THE TORTURE OF V2 AND THE CRUEL TREATMENT DETRIMENTAL TO V3

AUTHORITY RESPONSIBLE: SECRETARY OF NATIONAL DEFENSE

At approximately 16:00 hours on November 30th 2009, V2 and V3 were detained at the town of El Águila, Balancán, Tabasco State, by Mexican Army personnel assigned to the 38th Military Zone in Tenosique, Tabasco. They then took them to the military headquarters of such Military Zone, although it is important to mention that the soldiers of the Mexican Army made a stop during the journey and it was then that V2 realized that V1 had been detained.

V1, V2 and V3 were beaten by the soldiers who were holding them. During the night, V2 and V3 heard a soldier saying that V1 did not have a pulse.

V1 died on December 1st 2009 within the military complex, causing the agent of the Public Investigative Prosecutor's Office attached to the Assistant Attorney General's Office Specialized in Combating Kidnapping to initiate Preliminary Investigation 1.

Due to jurisdictional reasons, this enquiry was then sent to the Public Investigative Prosecutor's Office in Tenosique, Tabasco and then to the Assistant District Attorney's Office for Social Impact of the Tabasco District Attorney's Office, where Preliminary Investigation 2 was initiated. According to the report sent by the Human Rights bureau of the Secretariat of National Defense, up until the day of its issuance no preliminary investigation had been initiated by the agent of the Military Public Prosecutor's Office assigned to the 38th Military Zone in Tenosique, Tabasco due to the events detailed in the complaint.

From the logical-legal analysis performed on the entirety of the evidence contained within complaint file number CNDH/2/2009/5734/Q initiated in light of these events, the National Commission confirmed violations of the human rights to life, freedom, personal integrity and safety, proper treatment, to legality and to legal certainty, to the detriment of V1, V2 and V3. They resulted from actions consisting in the taking of life, failure to assist, care for or aid all people when having the obligation to do so, arbitrary detention and illegal retention to the detriment of V1, as well as the torture of V2 and cruel, inhuman and humiliating treatment to the detriment of V3.; in addition to the arbitrary use of public force, arbitrary detention and unlawful

retention to the detriment of V1, V2 and V3. All of these actions are attributable to civil servants of the Mexican Army assigned to the 38th Military Zone in Tenosique, Tabasco.

In response to these events, the Mexican National Human Rights Commission has considered it necessary to issue the following **Recommendations**:

To you, Mr. General and Secretary of National Defense:

First. Instruct whomever it may concern so that the necessary measures are taken to repair the damage inflicted upon the relatives of V1 or anyone who proves to be most lawfully entitled. This must be done due to the institutional responsibility incurred by civil servants of the Secretariat of National Defense, based on the considerations mentioned within this recommendation. Proof of compliance must be sent to the National Commission.

Second. Instruct whoever it may concern in order for the damage caused to V2 and V3 to be repaired by means of the medical and psychological assistance needed to return their physical and psychological health to the way they were before their human rights were violated. The National Commission must be told about the result.

Third. Instruct the necessary persons in order for the civil servants of the Secretariat of National Defense to refrain from manipulating crime scenes or ordering them to be manipulated and/or distorting their historical and legal facts. Once this has been done, proof of compliance must be forwarded to the National Commission.

Fourth. Generously collaborate with the Mexican National Human Rights Commission during the filing and processing of the complaint it submits to the General Inspection and Comptrollership Unit of the Secretariat of National Defense against the soldiers involved in the events condemned herein. Any evidence requested must be delivered to the national commission together with proof of compliance.

Fifth. Amply collaborate with the filing and follow up of the declaration of events which the National Commission submits to the Office of the Attorney General and the Office of the General Attorney of Military Justice, respectively, in order for them to initiate the legally corresponding preliminary investigation in accordance with their jurisdiction, given that the actions of federal civil servants led to this recommendation. Any proof of compliance requested must be sent to the National Commission.

Sixth. Issue an official missive aimed at military personnel so that people detained in flagrante are brought before the corresponding prosecuting authority immediately and without delay in accordance with article 16 of the Political Constitution of the United Mexican States. This is to keep them from being taken to

military facilities in order to have physical integrity evaluations performed on them because of what has been said earlier and due to the fact that the Office of the Attorney General has its own medical experts to perform such revisions. Once this has been done, a copy of such missive must be sent to the national commission.

Seventh. Instruct whomever it may concern so that the application of the “Human Rights Program, Secretariat of National Defense (S.D.N.) 2008-2012” and the “Program for the Promotion and Strengthening of Human Rights and International Humanitarian Law S.D.N. 2010” is intensified. These programs must be aimed at the middle and lower ranks and effectiveness indicators must be created to evaluate the beneficial impact of this training on respect for human rights. Proof of compliance must be sent to the national commission.